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Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
TW-A325
Washington, D.C. 20554

Re: Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price
Cap Incumbent Local Exchange Carriers and Interexchange Carriers
CC Docket No. 00-256
Ex Parte

Dear Ms. Salas:

The Commission's November 8, 2001 Order in the above-referenced proceeding¹ adopted a number of changes to the Commission's rules governing access charge and universal service funding for rate of return carriers. Among other things, the Order established a new Interstate Common Line Support (ICLS) mechanism and specifies rules governing reporting of ICLS-related data to the administrator.

In reviewing the FCC's Order, NECA has identified some anomalies that may prevent successful implementation of ICLS in accordance with the Commission's intent. These issues are identified and discussed below.

First, section 54.903 of the Commission's rules requires rate of return carriers to provide the Administrator with information necessary to calculate "the Projected Annual Common Line Revenue Requirement" for each of its study areas in the upcoming funding year. Beginning in 2002, this revenue requirement information must be submitted to the Administrator by March 31st of each year, with a one-time opportunity to submit true-ups to data projections on April 10th of each year.

¹ Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, CC Docket No. 00-256, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate of Return Regulation, CC Docket No. 98-77, Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers, CC Docket No. 98-166, *Second Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 00-256, Fifteenth Report and Order in CC Docket No. 96-45, and Report and Order in CC Docket Nos. 98-77 and 98-166*, 66 Fed. Reg. 59719 (2001) (MAG Order).

Because ICLS support is calculated based on common line revenue requirement less revenue from various common line charges, the rule does not appear to specify sufficient information for the Administrator to calculate initial ICLS amounts.² Further, rate of return carriers do not typically have the required information available to submit all the necessary projected data to the Administrator on March 31st. NECA common line pool members, for example, currently are able to provide NECA with only preliminary cost data projections in this early part of the year. These data are then used by NECA to develop final revenue requirement projections, demand projections and rate levels for its annual access tariff filing. Study area specific common line revenue requirement and revenue projections are not finalized until approximately June 15th of each year, when NECA completes the tariff development process.

Second, the MAG Order establishes procedures for true-ups of projected data and final ICLS payments. Section 54.903(a)(3) permits carriers to submit corrections to March 31st projected data on April 10th of each year. However, as noted above, accurate projections of data are not typically available for these carriers until mid-June of each year, and rate levels and average schedule settlement formulas do not become effective until July 1 of each year.

Section 54.903(a)(4) requires carriers to submit updated cost data by July 31st of the calendar year following the study year, which may then be used by the Administrator to true-up ICLS payments over the course of the following year. But rate of return companies typically do not complete their Part 36 and 69 cost studies until the second half of the calendar year following the study year. Thus, data to support true-ups would not typically be available by July 31st. Even after cost studies are submitted, further corrections to calendar year data may be necessary as the underlying data is reviewed and corrected.³

The Commission can resolve these problems by modifying section 54.903(a)(3) to permit carriers to submit updates to projected data by July 15th of each year. At this time, the tariff filing process is completed and more accurate cost and revenue projections, as well as approved average schedule formulas, would be available for all study areas. Furthermore, to insure accurate true-ups of ICLS payments, the Commission should modify section 54.903(a)(4) so as to permit carriers to update cost and revenue data on a quarterly basis following the proposed July 15th submission of final projections, and to permit the administrator to make corresponding quarterly adjustments to payments as such updates are submitted. Such interim true-ups will reduce the need for significant adjustments following submission of actual data.

To permit adequate time for completion of cost studies, the Commission should permit actual cost and revenue data for a given year to be submitted no later than December 31 of the following year. Final true-up payments would then be distributed as contemplated by the Order. Because, under NECA's approach, carriers will have had the opportunity to submit quarterly true-ups of ICLS data, the size and scope of final true-up adjustments following submission of actual cost data are likely to be smaller than they would be under the mechanism specified in section 54.903.⁴

² Under section 54.903 of the rules, ICLS is equal to a study area's Common Line Revenue Requirement minus the study area's end user revenues, carrier common line charge revenues, special access surcharge revenues, line port revenues and Long Term Support. 47 C.F.R. § 54.903. Possibly, the Commission intended that the administrator use historic line counts submitted pursuant to section 54.903(a)(1) to project funding year revenues. Using such historic revenue data to calculate ICLS amounts with the projected cost data specified under section 54.903(a)(3) would substantially misstate ICLS funding requirements, however.

³ NECA pooling procedures permit carriers to submit interim true-ups and final corrections to data on a monthly basis for up to 24 months following the data month to which the correction applies. Thus, for example, pool settlements for calendar year 2002 are initially based on projections which may be adjusted monthly during the year. During the latter half of 2003, carriers will submit cost studies, which will be used for true-ups of 2002 data. Beginning January 2004, the corresponding 2002 data months become final each ensuing month until December 2004, when the pool "window" closes for all months of the 2002 data year.

⁴ To the extent that data reporting is accomplished via procedures consistent with existing common line pooling processes, administrative burdens on carriers and the administrator are materially reduced. Further, NECA has

The Commission should resolve these problems by revising the rule to specify that the administrator must receive all of the preliminary information necessary to compute ICLS support amounts by March 31 of each year. The Commission should also reaffirm that carriers may continue to rely on NECA to submit initial projection and true-up data on their behalf, consistent with processes currently used for the common line tariff filing and pooling procedures.⁵

Finally, the MAG Order accounted for the impact of replacing carrier common line revenue requirements with ICLS support on NECA administrative expenses by revising section 69.603(g) of the Commission's rules to include ICLS support in the allocation base for Category I.B. expenses. The rules do not explain, however, how these expenses will be apportioned for purposes of calculating individual study area common line revenue requirements following the July 1, 2002 implementation date for MAG changes. To clarify this mechanism, NECA suggests that section 69.606(h)(2) of the rules be modified to specify that NECA Category I.B expenses be apportioned to individual study areas on a *pro rata* basis.

Attached are draft revisions to sections 54.903(a)(3) and (4), and 69.603(h) of the Commission's rules that address the administrative issues discussed above.⁶ These revisions will assist the Commission and the administrator in effectuating the intent of the MAG Order in an orderly and timely fashion. These revisions will also reduce administrative burdens on rate of return carriers.

It is essential that the Commission act quickly to resolve these administrative issues. As noted above, it is not clear how the ICLS mechanism will be implemented under the rules as written. Assuming that the rules are left in place it is unclear how carriers and the administrator will be able to meet the rules' requirements, including those associated with the March 31 reporting date. Prompt action by the Commission to revise the rules would thus avoid unnecessary burdens on both rate of return carriers and the administrator, and would help insure successful implementation of the Commission's MAG Order on a timely basis.

Sincerely,

/s/ Richard A. Askoff

CC: Irene M. Flannery, Vice President-High Cost and Low Income, USAC
Qualex International

significant data review processes in place that are subject to independent third party audits, assuring that accurate final true-up data will be available to the administrator on a timely basis.

⁵ Under this approach, NECA will on March 31st provide USAC with an estimate of the aggregate forecast of ICLS for the common line pool participants to be combined with the forecast of ICLS amounts for non-NECA pool members. This will enable USAC to establish a projected funding requirement for its May 2nd quarterly contribution factor filing. In addition, NECA can provide USAC with preliminary projections of study area requirements for the cost and average schedule companies that participate in NECA's common line pool. The majority of these companies today rely on NECA to make these projections on their behalf and this will provide an efficient mechanism to develop initial estimates for these companies. See MAG Order at ¶ 162 n.428.

⁶ The Commission may also want to consider revising section 54.904(d) as well, which as presently written appears to require carriers to certify that it will use ICLS support only for its intended purposes twice within a three-month period (once on March 31, 2002 and again on June 30, 2002). See 47 C.F.R. § 54.904(a) and (d); MAG Order at ¶ 176. Since a carrier's use of funding is unlikely to change during this period, the rule could easily be rewritten so that the initial certification is applicable to the fifteen-month period beginning March 31, 2002 and ending June 30, 2003. A proposed amendment to the rule that accomplishes this result is also included in the attached.

Proposed Rule Changes

§ 54.903 Obligations of rate-of-return carriers and the Administrator.

(a) * * *

(3) Each rate-of-return carrier shall submit to the Administrator, on March 31, 2002, and annually thereafter on March 31st preliminary information needed to compute the Interstate Common Line Support amount as defined in section 54.901 of this chapter ~~calculate the Projected Annual Common Line Revenue Requirement for each of its study areas in the upcoming funding year.~~ A rate-of-return carrier's ~~projections~~ Projected Annual Common Line Revenue Requirement shall be calculated in accordance with Part 69 of this chapter. The funding year shall be July 1 of the current year through June 30 of the next year. Rate-of-return carriers will be permitted to submit corrections to their projected Annual Common Line Revenue Requirement until April 10, 2002, and annually thereafter until April 10th. Each rate-of-return carrier shall submit to the Administrator, on July 15, 2002, and annually thereafter on July 15th, updated information needed to compute the Interstate Common Line Support amount as defined in section 54.901 of this chapter for each of its study areas in that funding year.

(4) Each rate-of-return carrier ~~may shall~~ submit to the Administrator, on a quarterly basis July 31, 2003, and annually thereafter on July 31st, the updated carrier's common line costs and revenues as defined in part 69 of this chapter for each study area, in which it operates for the previous calendar year. Such data shall be used by the Administrator to make adjustments to monthly per-line Interstate Common Line Support amounts in the following quarter ~~calendar year~~ to the extent of any difference between the carrier's Projected data ~~Annual Common Line Revenue Requirement~~ and the carrier's updated data ~~actual costs during the relevant period.~~ A rate-of-return carrier shall provide the Administrator with true-up information for the previous calendar year for each study area for which it operates based on actual data no later than December 31 of the following year. A rate-of-return carrier may update the information submitted on December 31st ~~on July 31st~~ one or more times quarterly on a rolling year basis according to the schedule in § 36.612 of this chapter.

§ 54.904 Carrier Certification.

* * *

(d) *Filing Deadlines.* In order for a rate-of-return carrier, and/or eligible telecommunications carrier serving lines in the service area of a rate-of-return carrier, to receive Interstate Common Line Support, such carrier must file an annual certification, as described in subsection (b) of this section, on the date that it first files its line count information pursuant to § 54.903 of this subpart, and thereafter, beginning in 2003, on June 30th of each year.

§ 69.603 Association Functions.

(h) * * *

(2) The revenue requirement for association tariffs filed pursuant to § 69.4(a) and (b)(2) shall not include any Association expenses other than Category I.B Expenses. Beginning July 1, 2002, Category I.B Expenses shall be apportioned to study areas on a *pro rata* basis.